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*Attorneys for Defendants*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CHI KONG LEUNG on behalf of himself and all  
others similarly situated,

Plaintiffs,

v.

HOME BOY RESTAURANT INC. d/b/a TRIBECA  
GRILL and DREW NIEPORENT,

Defendants.

**ECF CASE**

**07-CV-8779 (RJS)**

**DEFENDANTS' RULE 26(A)(1) INITIAL DISCLOSURES**

Defendants HOME BOY RESTAURANT INC. d/b/a TRIBECA GRILL ("Tribeca Grill") and DREW NIEPORENT (collectively "Defendants"), by their attorneys, Fox Rothschild, LLP, hereby submit the following initial disclosures pursuant to Rule 26(a) of the Federal Rules of Civil Procedure. Defendants have not fully completed their discovery or preparation for this purported class action. The information provided herein is given without prejudice to their right to rely upon evidence subsequently discovered or to alter their disclosures. Defendants reserve their right to offer into evidence in proceedings or pleadings before this Court, or at trial, evidence, witnesses and documents that are not currently identified

in these disclosures but which, after further discovery, may be deemed relevant and supportive of its position in this lawsuit.

**I. The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information.**

The following persons are likely to have discoverable information that Defendants may use to support their defenses.

1. Chi Kong Leung – Plaintiff, c/o Plaintiffs’ counsel. Mr. Leung is the lead plaintiff and is likely to have knowledge regarding his claims.
2. Chung Kwok Or - Opt-in Plaintiff, c/o Plaintiffs’ counsel. Mr. Or is likely to have knowledge regarding his claims.
3. Chelsea McKinnies - Opt-in Plaintiff, c/o Plaintiffs’ counsel. Ms. McKinnies is likely to have knowledge regarding her claims.
4. Drew Nieporent - A named Defendant in this action. Mr. Nieporent is likely to have knowledge concerning Defendants’ general policies and procedures, and general restaurant operations. Mr. Nieporent should only be contacted through undersigned counsel.
5. Martin Shapiro - Mr. Shapiro is likely to have knowledge concerning Tribeca Grill’s general policies and procedures concerning front-of-house operations and employment history of Tribeca Grill’s employees. Mr. Shapiro should only be contacted through undersigned counsel.
6. Greg Ryan – Mr. Ryan is likely to have knowledge concerning Tribeca Grill’s general policies and procedures concerning front-of-house operations and

employment history of certain Plaintiffs he supervised. Mr. Ryan should only be contacted through undersigned counsel.

7. Agnes Chiao – Ms. Chiao is likely to have knowledge concerning Tribeca Grill’s general policies and procedures, and general restaurant operations. In particular, Ms. Chiao will have information concerning the wages earned by the Plaintiffs and paid by Tribeca Grill. Ms. Chiao should only be contacted through undersigned counsel.
8. David Gordon – Mr. Gordon is likely to have knowledge concerning Tribeca Grill’s general policies and procedures concerning front-of-house operations. Mr. Gordon should only be contacted through undersigned counsel.
9. Arleene Oconitrillo – Ms. Oconitrillo is likely to have knowledge concerning Tribeca Grill’s general policies and procedures concerning front-of-house operations and employment history of certain Plaintiffs she supervised. Ms. Oconitrillo should only be contacted through undersigned counsel.
10. Jennifer Mullins – Ms. Mullins is likely to have knowledge concerning Tribeca Grill’s general policies and procedures concerning front-of-house operations and employment history of certain Plaintiffs she supervised. Ms. Mullins should only be contacted through undersigned counsel.
11. Avi Bromberg – Mr. Bromberg is likely to have knowledge concerning Defendants’ human resources, payroll and employment policies and procedures. Mr. Bromberg should only be contacted through undersigned counsel.

Other witnesses may become available throughout the course of discovery and investigation including, but not limited to, Plaintiffs’ expert witnesses as well as any expert witnesses who Defendants’ may decide to retain.

Defendants do not consent to ex parte contact with any current or former employees that would violate any ethical standard applicable in this proceeding.

**II. A copy of, or a description by category and location of, all documents, data compilations, and tangible things in possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.**

In support of their defenses, Defendants may rely on the following categories of documents, all of which are located in, or otherwise available to personnel located in, Defendants' Restaurant and corporate offices in New York, New York:

1. Plaintiffs' personnel-related documents;
2. Plaintiffs' payroll records, including sign in sheets, payroll and tip sheets;
3. Daily manager logs;
4. Employee service handbooks and policies;
5. Daily point of sale ("POS") reports;
6. Cash tip-out summary reports; and,
7. Any relevant prior federal or state administrative agency findings, reports, or related reports, if any.

**III. A computation of any category of damages claimed by the disclosing party.**

Defendants seek all appropriate costs, expenses and attorneys' fees that may be available to a prevailing party in this litigation.

**IV. For inspection and copying any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of the judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.**

Not applicable.

Dated: New York, New York  
February 18, 2008

FOX ROTHSCHILD LLP

By: 

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*Attorneys for Defendants Homeboy Restaurant Inc.  
d/b/a Tribeca Grill and Drew Nieporent*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 18, 2008, I electronically filed the foregoing Rule 26(a) Disclosures with the Clerk of the District Court using the CM/ECF system, which sent notice of such filing to the following:

D. Maimon Kirschenbaum, Esq.  
Charles Joseph, Esq.  
Joseph & Herzfeld, LLP  
Counsel for Plaintiffs

By: \_\_\_\_\_

  
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